IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

CRL.A.No. 400 of 2002()

ST.203/2001 of CHIEF JUDICIAL MAGISTRATE COURT, THODUPUZHA
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APPELLANT: APPELLANT/COMPLAINANT:

JOHN MATHAI, S/O. MATHAI JOHN,
POOTHAKKATU HOUSE, VADAKKUMMURI KARA,
KARIMKUNNAM VILLAGE, THODUPUZHA TALUK,
(STANDARD FABRICS, WHOLESALE DEALER IN DRESS
MATERIALS, MARKET ROAD, ERNAKULAM).

BY ADV. SRI.MATHEW SKARIA

RESPONDENTS: RESPONDENTS/ACCUSED & STATE:
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1. EMBROSE P. ISMAIL, FEMINA FASHIONS,
NO.41/889, MEHRIN COMPLEX, PULLEPPADY
JUNCTION, CHITTOR RAOD, ERNAKULAM.
(CLOTH MERCHANT).

2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 17/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J.

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Crl.A.No.400 of 2002(A)

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Dated this the 17th day of August, 2007

J U D G M E N T

The appellant is the complainant in S.T.No.203/2001 in the file of the Chief Judicial Magistrate, Thodupuzha, with respect to the proceedings initiated under Section 138 of the Negotiable Instruments Act. The accused was acquitted under Section 256(1) of the Code of Criminal Procedure. It is submitted that the lapse was occasioned on account of the wrong noting of the posting date.

In the circumstances, the order of acquittal is set aside. The court below is directed to permit the appellant/complainant to further pursue the matter and dispose of the case on merits. The appellant shall appear before the court below on 18/09/2007. The court below shall issue fresh summons to the accused.

The appeal is allowed.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.A.No.400 of 2002(A)

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J U D G M E N T

17th August, 2007